IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

W.P.(C).No. 35456 of 2007 (U)

PETITIONER:

RATNAKUMARI S., W/O. K.SASIDHARA KURUP,
GOKULAM, BEACH ROAD, PALLITHOTTAM, KOLLAM.

BY ADV. SRI.S.SANTHOSH KUMAR

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, KOLLAM.

3. THE REVENUE DIVISIONAL OFFICER,
KOLLAM.

4. THE TAHSILDAR,
TALUK OFFICE, KOLLAM.

BY GOVT. PLEADER, SRI.TEKCHAND

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

= = = = = = = = = = = = = = =

W.P.(C) No. 35456 OF 2007 (U)

= = = = = = = = = = = = = = =

Dated this the 30th November, 2007

J U D G M E N T

The prayer is to quash Exts. P5, P9 and P11. These are orders issued under the Kerala Building Tax Act. In essence what the petitioner seeks is that the buildings should be treated as different units and that the assessment should be in the name of the persons in whose name it has been settled as per Ext. P2 settlement deed executed by her.

2. However, I notice from the order of the assessing authority as also the revisional authority that the assessment order was issued on the basis of the report dated 6-8-2005 of the Village Officer, Kollam East and that Ext. P2 settlement deed was executed only on 25.8.2005. It is also stated that the ownership of the dwelling units are seen transferred by the Corporation into the name of the petitioner's children only on 17.10.2005 on an application dated 9.9.2005which again is much after the case wsa booked by the assessing authority.

3. Thus, it is obvious that it is long after the case was

registered against the petitioner that the petitioner had transferred the properties. If that be so, the assessing authority or the appellate authority or the revisional authority under the Kerala Building Tax Act cannot be faulted for treating the petitioner as the assessee and also the building as one unit and levying tax on that basis.

4. Petitioner submits that the building was constructed making use of the individual contributions made by her children. It may be true that the petitioner would have made use of the funds contributed by her children, but then the building is constructed in her name and that the title was transferred later and therefore the individual contribution that her children may have made, in my view, is of no consequence. The orders impugned do not call for any interference.

5. In so far as the luxury tax is concerned naturally that is consequential to the orders of assessment which I have upheld and hence I do not see any reason for interference with that order either.

Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE

jan/-